



U.S. Department of Justice
United States Attorney
District of New Jersey

970 Broad Street
Newark, New Jersey 07102

973-645-2700

December 16, 2023

Honorable Michael E. Farbiarz
United States District Judge
U.S. Post Office & Federal Courthouse
Newark, New Jersey 07102

Re: United States v. Gordon Coburn and Steven Schwartz
Crim. No. 19-120 (MEF)

Dear Judge Farbiarz:

The Government respectfully submits this letter in response to the Defendant Steven Schwartz's December 5, 2023, letter to the Court, ECF No. 589, in which he requests that the Court direct the Government to produce to the defense documents that the Government and Srimanikandan Ramamoorthy have provided to Indian authorities. For the reasons stated below, the Court should deny Schwartz's request.

Documents that Mr. Ramamoorthy provided to Indian authorities are not, as Schwartz suggests, impeachment materials. Mr. Ramamoorthy provided them in response to requests by investigative agencies in India. That Mr. Ramamoorthy provided those documents to comply with a directive by Indian law enforcement does make them impeachment materials.

Moreover, even if the documents were impeachment materials (which they are not), they are not now, nor have they ever been, in the possession, custody, or control of the Government. See *United States v. Risha*, 445 F.3d 298, 303 (3d Cir. 2006). That Mr. Ramamoorthy is a U.S. cooperator whom the Government could ask to turn over the documents does not change that analysis. Mr. Ramamoorthy is not part of the Government's prosecution team; like all cooperators, he has his own interests and motives with respect to the various Indian investigations into the events alleged in the Indictment. As a cooperator, Mr. Ramamoorthy "stand[s] in a very different position in relation to the prosecution than to police officers and other governmental agents." *United States v. Graham*, 484 F.3d 413, 417 (6th Cir. 2007). Accordingly, the Government is not obligated to request and then produce to the Defendants the documents that Mr. Ramamoorthy has turned over to various investigative agencies in India.

Schwartz also mischaracterizes the documents that the Government has provided to Indian authorities. The Government has not told Mr. Ramamoorthy or his counsel which documents the Government provided to ED, nor has it shared those documents with them. Because the underlying documents provided to ED have no bearing on Mr. Ramamoorthy's credibility, nor his character for truthfulness, they are not *Giglio*. And, the Government has provided other documents to ED that have nothing to do with the documents that ED requested from Mr. Ramamoorthy. It would be improper to reveal the priorities of an investigative agency in another country to Schwartz when they are not *Giglio* or otherwise discoverable. Moreover, the documents that the Government has provided to ED have all been turned over to Defendants in discovery; thus, there is nothing that the Government has produced to ED that the Defendants do not already possess.

Other than a conclusory statement that the documents the Government has provided to ED are "discoverable under *Giglio*" and "material to the defense," ECF No. 589 at 2, Schwartz has provided no basis to compel disclosure of these materials. The documents provided are not *Giglio*, and even if they were material, they have already been disclosed to the Defendants in discovery. Schwartz is not entitled to the documents in the form that they were produced to ED pursuant to Rule 16, *Brady v. Maryland*, or *Giglio*, and his request should be denied.

Respectfully submitted,

GLENN S. LEON
Chief

/s/ *Sonali D. Patel*
/s/ *Gerald M. Moody, Jr.*

SONALI D. PATEL
GERALD M. MOODY, JR.
Fraud Section, Criminal Division
U.S. Department of Justice

PHILIP R. SELLINGER
United States Attorney

/s/ *Jonathan Fayer*

JONATHAN FAYER
Assistant U.S. Attorney
District of New Jersey